

WHITNEY H. MARVIN

IBLA 79-484

Decided March 31, 1980

Appeal from the decision of the New Mexico State Office, Bureau of Land Management, rejecting noncompetitive oil and gas lease offer NM-A 36016 (Okla.).

Affirmed.

1. Mineral Leasing Act for Acquired Lands: Lands Subject To -- Oil and Gas Leasing: Lands Subject To

Acquired lands situated within the boundaries of incorporated cities, towns, or villages are excluded from oil and gas leasing under sec. 3 of the Mineral Leasing Act for Acquired Lands of 1947, 30 U.S.C. § 352 (1976).

APPEARANCES: Whitney H. Marvin, pro se.

OPINION BY ADMINISTRATIVE JUDGE BURSKI

Whitney H. Marvin has appealed the decision of the New Mexico State Office, Bureau of Land Management (BLM), dated May 11, 1979, rejecting his noncompetitive oil and gas lease offer NM-A 36016 (Okla.). The lease offer covers the NE 1/4 NW 1/4 NW 1/4 of sec. 35, T. 8 N., R. 25 E., Indian meridian, Oklahoma.

The BLM decision states that the offer is rejected because "[i]n accordance with 43 CFR 3101.2-1(d), lands acquired by the United States which are within incorporated cities, towns, and villages are excluded from mineral leasing" and the lands described in appellant's offer are "within the corporate boundary of the City of Poteau, Oklahoma."

In his statement of reasons, appellant asserts that the tract is "outside of the City area of Poteau \* \* \* 6 miles from the actual City proper and drilling of a well in this area would in no way inflict any harm to the City or its citizens."

[1] Section 3 of the Mineral Leasing Act for Acquired Lands of 1947, as amended, 30 U.S.C. § 352 (1976), states:

[A]ll deposits of \* \* \* oil \* \* \* [and] gas \* \* \* which are owned or may hereafter be acquired by the United States and which are within the lands acquired by the United States (exclusive of such deposits in such acquired lands as are (a) situated within incorporated cities, towns and villages \* \* \* may be leased by the Secretary \* \* \*. [Emphasis supplied.]

The regulation cited by BLM lists acquired lands to which the Act does not apply including those lands "(d) In incorporated cities, towns, and villages." Departmental decisions have consistently held that section 3 precludes oil and gas leasing of acquired lands within incorporated cities, towns, and villages. James L. Santy, 25 IBLA 390 (1976); Sallie B. Sanford, 23 IBLA 312 (1976); Bernard Silver, A-30873 (November 28, 1967); Hugo Pyes, A-29875 (February 19, 1964); Duncan Miller, A-29873 (November 19, 1963). See Hawthorn Oil Co., 37 IBLA 91, 92-93 (1978).

The city of Poteau, Oklahoma, Ordinance 202 (December 26, 1962), extended the corporate limits of the city to include the W 1/2 NW 1/4, sec. 35, T. 8 N., R. 25 E., Indian meridian, as well as other parcels of land in the vicinity. Therefore, BLM properly rejected appellant's offer to lease.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

James L. Burski  
Administrative Judge

We concur:

Joseph W. Goss  
Administrative Judge

Joan B. Thompson  
Administrative Judge

